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*The french political parties system :
 From freedom to a public ascendancy*

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INTRODUCTION

First, I would like to present to you the three main points that are typical of the french political life at the present time.

1 - The “Vème République” and political parties

After the Second World War, General De Gaulle criticized very severely the fourth republic, denouncing the “republic of parties”.

So, the real surprise when he came back to the power in 1958 was to have him drafting a project for a new constitution for France that gave political parties a constitutional status¹.

For the first time since the “French Revolution” and after thirteen successive constitutions, political parties were officially cited in the country’s supreme law.

Such a compromise with parties that dominated the french political life in 1958 appears in the article 4 of the constitution on 4 October 1958 (Fifth Republic) :

“Parties and political groups contribute to the expression of suffrage. They create themselves and exercise their activity freely. They have to respect the principles of the national sovereignty and democracy”.

In fact, this new status did not confer to those parties a new and fundamental role in the French politic.

Parties already enjoyed legal personality, they could go to court and they could buy possessions, even real estate.

But in 1958 no legal disposition were regulating the financing of parties.

2 - A 200-years long struggle for power

Since the “French Revolution”, the structure of our national political life changed very frequently, as the competition for power opposed two or three different camps.

The competition between conservative and progressive groups was not founded on two organized and distinct parties.

During the Third and the fourth Republic many parties successively won the elections and in particular the oldest of them, the Radical Party founded in 1901 (Socialist party in 1905, communist party in 1920).

Anyway, political life was characterized by the instability of the government.

Most of the existing parties in France today have been founded in the recent years.

¹Cf. *L'histoire de l'élaboration de la constitution du 4 octobre 1958*, Volume I, Documentation française, 1987.

The most recent is the Union for a Popular Majority (UMP) that was created only three years ago.

The present French political life is breaking up in twelve important parties, two of them being more important than others: the Socialist party and the Union for a Popular Majority.

None of those parties can win alone any parliamentary election.

In fact, since 1965, our political life has been dominated by the election for the Presidency of the Republic (founded since the constitutional reform of 1962 on the universal suffrage) : this election is the most important of all, French presidents enjoying a very important stability: only five presidents since 1958, in near fifty years, General de Gaulle, Georges Pompidou, Valéry Giscard d'Estaing, François Mitterrand and now Jacques Chirac.

But the election of the President does not prevent the alternance in government.

The first alternance took place in 1981 and what we call the “political living together” first happened in 1986.

3 - Creating European political parties : a new challenge.

If the competition for power opposed national parties, these parties still have to get an european stature and to strike up relations with parties in other european countries.

The election for the European parliament did not change this situation.

All parties must, after this election, regroup into European political groups².

So did French parties but if other nation's parties were able to regroup in only 3 to 4 parliamentary groups the french did scatter into almost every existing groups reflecting thus the nation's most diverse and fragmented political culture.

The french political life is still centred on national electoral competition.

But the adoption of a 2003 European regulation has been a most important event.

It is the Regulation n°2004/2003³ adopted by the European parliament and of the Council of 4 november 2003 on the regulations governing political parties at european level and the rules regarding their funding.

A political party is defined as an association of citizens, pursuing political objectives.

It is recognized or established in each member state in accordance with the legal order of at least one Member state.

² At the present time, there are eight political groups in the European parliament.

³ *Official Journal of the European Union*, 15. 11. 2003, L 297/1.

A « *political party at european level* », however, is a political party or an alliance of political parties which satisfies four conditions referred to in paragraph 3 of this regulation⁴.

Badly regarded in France, always suspected to neglect the interests of the citizens⁵, French political parties do meet a lot of difficulties to exist and recruit militants.

Now let me try to concentrate on political parties, their life, organization and founding and not upon suffrage, election organization and electoral competition.

I will now describe the french party system as a system founded on the freedom of creation (I), even as it is at the present time an imperilled freedom (II).

I – The freedom of partisan construction

This freedom is no new liberty.

The French political history is characterized by a lot of political groups who were born at different times, then quickly died.

This situation evidently results from French history.

Monarchy and Empire alternated to power during most of the XIXth century.

Political repression was a constant reality until the begining of the third republic.

It was only then that, progressively, parties could be legally recognized and were able to organize.

The main progress was the adoption of the law of 1st july 1901 about the freedom of association.

Such a freedom was the recognized as a basic principle (A) which let parties free to organize (B).

A/ Freedom of creation : a basic principle

During the XIXth century, French political life was made up by unorganized and unstable political groups whose sole purpose was to support political leaders.

The alternance of antagonist regimes successively born and toppled by wars and revolutions did not permit the development of a real democratic political life.

⁴ To have legal personality, to be represented in at least one quarter of the member states by members of the European Parliament or in the national conditions or regional Parliaments or in the regional assemblies, or, to have received always in the leats one quarter of the Member states, at least three per cent of the votes cast in each of those member states at the most recent European Parliament elections, observe the principles on which the European Union is founded, democracy, respect for human rights and fundamental freedoms, and the rule of law, to have participated in elections to the European Parliament, or have expressed the intention to do so.

⁵ Pierre Bréchon, *Les partis politiques français*, p. 208, éd. La documentation française, 2004.

The emergence of great political doctrines, ideologies, like socialism, led to the first forms of political groups, but it did happen in France only after the recognition of trade unions⁶.

1 - From freedom of collective political action to the freedom of association

Every citizen can freely participate in creating a political party in France.

This freedom is regulated by one law : the law of 1st july 1901 about the contract of association.

Freedom is, since the decision of the constitutional council of 16th july 1971⁷, one of the *“basic principles recognized by the laws of Republic and solemnly reaffirmed by the Preamble of the Constitution”*.

One condition : you cannot create a party alone. The status of an association implies at least a “président”, a “treasurer”, and, in most cases, a secretary.

You can create such an association very simply by just signing a deed of association.

Anyway, should you go into politics, a special association will have to be especially created and will have to get a full legal existence and legal personality.

This implies having the deeds of association registrated by your local “prefecture” and officially published in an official monitor.

This proceeding is free.

Only formal conditions are to be respected (deeds of association, a first constitutive general meeting of members, a first meeting of the board, nomination of president and treasurer, etc..) and it is important to note no government official can refuse to register the association as long as the law is formally respected and the association's goals are not illegal.

Such an association is a privately owned legal entity.

Should it have to benefit public financing of political campaigning, getting a licensing from the “National commission on accounts of campaign and financing politics” is a necessary step. This body is an independent public authority with regulating power.

Two conditions are to be met :

- the association's goal will be only financing a political party,
- having a dedicated bank account and defining its own constituency (national, regional, departmental, communal) to exercise its activity.

The license can be withdrawn by the commission.

⁶1865.

⁷Grandes décisions du conseil constitutionnel, 16th july 1971, freedom of association.

Freedom of creation certainly explains the number of political parties. It is really easy to create a party, even with only a few persons.

Therefore, a great number of parties do not have a national vocation.

Many parties have only a limited territorial dimension ; some of them are regionalists or autonomists ; others are created by a political leader who wants to lead his own political structure.

As in trade unions, party membership is free.

But membership fees are encouraged by tax law as such fees are deductible from taxable income up to a certain amount.

Fees are freely determined by the party and can be modulated according to different categories of militants (by the status or the annual general assembly). There is no legal maximum for fees.

Membership fees have to be distinguished of donations which exceed the amount of membership fees decided by the party leadership.

As French law-makers have decided to support the financing of parties, donations are tax deductible as well as membership fees in compliance with paragraph 200 of our General tax code⁸.

But monies are to be given only to legally recognize financial associations of parties or political groups as explained above.

2 - A nevertheless limited freedom

As stated by a law of 11 march 1988, paragraph 7, *“parties and political groups can constitute and exercise their activities freely. They have the benefit of legal personality. They have the right to go to courts. They have the right to acquire freely or costly all kind of goods (including real estate) : they can do all acts in accordance with their mission and can in particular create and manage newspapers and educational institutions in accordance with current laws ”*.

If creating a party is free, the life of any political party is subjected to a certain framing, which can be summed up in four points:

- respecting public order and democracy,
- No financing by local governments, bodies and public institutions whatsoever as those are legally bound to respect a full political neutrality,
- No financing by foreign entities. The law forbids to receive, directly or indirectly, monies from abroad, any financing or material help from a foreign state or any foreign-based legal entity. Some recent events did show how complicated and difficult to enforce is this particular matter: Irak, French Likoud, ETA (Spanish and French Bask independence movement...).
- imposing financing sanctions during electoral competitions if a party does not respect the mandatory men/women parity in national candidacies.

⁸Article 200-3.

Regarding the first point, it is interesting to note that very exceptionally, state can forbid a party.

It was a mere coincidence that the French government very recently dissolved a political group (18th may 2005), the *Elsass Korps*, a far right movement of Alsace (a region).

Such move are extremely rare.

It is a government's decision upon the proposition of Home office.

It is made under a law of 10th January 1936 upon the fighting groups and private militias. This law foresees that are to be dissolved by a decree of the President of Republic after a deliberation in cabinet meeting all associations or groups who, for example, bring about armed demonstrations in the streets, which goal would be to undermine the integrity of national territory or who attempt to bring down the republican form of government...

The decree can be challenged before the State Council which has to rule in urgency proceeding (attempt to a public freedom).

During the last twenty years such decisions were rare.

In some cases, the State Council ruled against the government.

For example, it ruled as illegal and void two successive decrees taken against the same party. It was the Federation of National and European Action (FANE).

A first decision, pronounced in 1984, ruled a decree to be illegal as not dully motivated, that is as citing no evidences or substantial material facts justifying the government's decree ⁹.

Later on, another ruling stated a second decree to be illegal as the party's leaders did not get any opportunity to state their point of view in writing in due time. In this case the government was ruled to have deprived the court of any means to verify the decree's compliance with the law ¹⁰.

The State Council ruled that no urgency, no exceptional circumstances, no necessities of public order or of international relations were cited to justify limiting or attempting to the rights of the leaders of that party.

Now you understand why such decrees are rarely taken by the French government.

Attempting to political freedom have to be justified; failing that, the decision can be ruled out by court.

⁹CE, 31 octobre 1984, n°28070, FANE.

¹⁰CE, 26 juin 1987, 67077, FANE.

B/ A diversified internal organization

A political party can have three functions:

- To elaborate a program and build an adequate organization. Every party has to try to structure the public opinion and to educate citizens,
- to animate politic debates,
- To select the political elite and professionals who govern or will have to govern the country by assigning the party's nomination for elections.

Every party aims to conquering the power or at least taking part to public affairs or merely expressing a political opinion.

Their internal structure is freely organized.

In most cases and in compliance with the law governing the freedom of association, organization is internally settled by the leaders and / or the party members.

1 - The freedom of internal organization

Every party has its own structure, hierarchy and form of internal discipline.

Generally, in France, the big parties are structured around a national structure and form a pyramidal organization.

Its leader is called "president" or "general secretary" and is elected, every year or every two years, in congress or by a national vote, by either party members or the representatives of the party members.

But French political culture means a lot of specific structures and designations.

There are many political parties in France.

In fact we don't know exactly how many parties are active in France today : national parties, regional parties...

The most important parties are:

On the extreme right : National Front (FN)

On the right: The Union for a Popular Majority (UMP),

On the centre: The Union for the French Democracy (UDF),

On the left: The socialist Party (PS), The Green, The French communist Party (PCF),

On the extreme left: The Revolutionary Communist League (LCR) and Worker Warfare (LO).

Some others parties can be indicated:

- On the centre (right and left) the two radical parties,
- On the right: the Movement For France (MPF).

The French party system is centred nowadays on the presidential election.

It means every party has to present a candidate if he wants to be recognized and really wants to exist in the electoral competition.

Some parties do organize internal elections to designate their candidate. It is the case, notably, of the socialist party.

Others merely select their candidate in their central structure.

Nearly all parties have had a candidate to all presidential elections since 1965. It is symptomatic of one difficulty in France: How to regroup voters?

For instance, Monsieur Lionel Jospin paid the price of that difficulty during the presidential elections in 2002.

Parties are generally centralized with local representatives and a disciplinary body empowered to exclude somebody who doesn't respect the national and political orders.

Here are two examples:

1. The oldest party in France, the Radical Party created in 1901 is much decentralized.

It is structured in local committees based on electoral constituencies, departmental and regional federations and a national body (president, executive comity, national board). The description of that party is interesting because when it was created, the local organizations were based on party militants, radical newspapers, thought society. There are nowadays two radical parties in France who are sited in the centre of the political life (right or left centre).

2. On the other hand, on the far right, National Front with its president, Jean-Marie Le Pen, is a party very much organized around its leader.

The party structures are essentially national with a central comity (120 members) elected by a congress, a national board which is composed of militants, elected members and personalities, a political board (49 members) and two executives : the general secretary and the general delegate.

Nowadays, parties do not control any more the political life or rather the politic debate.

They are in competition with new structures which do not always have the vocation to compete with them in electoral contest.

This explains the weakness of French parties today.

This weakness is reflected by the number of party members.

All parties tend to increase that number artificially. No party enounce the real number of its members. This reality is rather disturbing. It is most possible that today all French parties taken together do not have more than 450.000 members.

Parties are very often essentially a kind of club of representatives, notables and much less of real political militants.

This situation explains, perhaps, why parties tend to create and manage other apparently non-partisan structures.

2 - The development of additional structures.

It is a kind of French tradition, essentially since the Revolution.

All parties need clubs, circles, think-tank societies, and associations.

They are used for very diverse purposes.

Sometimes it is to take part in political debates. Sometimes it is to test new ideas, sometimes it is to debate between persons who have the same vision of some strategy.

After some time some of those structures can win a real independence.

Clubs, circles, think-tank societies, associations appear to work on the periphery of parties, sometimes to bring up ideas for political programs, often to offer a free space to discuss and contest and offer alternatives.

This phenomenon appears on the right and the left spectrum of the french political life.

On the left, we can particularly name the movement ATTAC.

In French political history, the french Communist Party always kept such structures very closely.

This party, who steadily and strongly declined during the last twenty years, was able to find in its better days a support with a union trade, the Workers General Confederation (CGT), or the French Popular Assistance (SPF) or The Union of French Women (UFF).

Only one national newspaper, L'Humanité, express today the communist analysis.

Some parties have also invented structures with a social vocation or made up to express a particular opinion on a particular matter.

Sometimes, it is only to give the impression of being supported by a large number of structures.

It is the case of the National Front.

Describing French parties is not enough to sum up the reality of French political life.

It is now time to present the most important public evolution in the last twenty years: the intervention of the State in the working and life of political parties.

II - An imperilled freedom

If freedom of creation of parties is a reality, the working of these parties has always put up some difficulties.

After two centuries of freedom, state adopted laws about the political life, under the control of the Constitutional Council¹¹.

The intervention of the State shows through the financing of parties and the framing of political expenses during the electoral campaigns.

A/ A growing necessity of public support

During the last thirty years, several phenomenons were typical of french political life.

1- The factors of the public crescent ascendancy

For me, three phenomenons can explain such a situation:

- The professionalization of campaigning and the electoral life, essentially during the presidential campaigns (marketing, press, propaganda, ...).

Such evolution required a much bigger financing than traditional means of financing could offer.

The party members could not support exclusively that kind of expenses.

- The development of embezzlement in financing or in public building contracts, essentially on a local level.

A lot of such “scandals” have lead to prosecution during the last ten years and to a lot of media exposure which did embarrass a lot of party officials.

These embezzlements were necessary, said the accused politicians, to finance the parties and their working.

The recent trial of the public contracts of Ile-de-France¹², is only one of several trials and perhaps the last one.

¹¹Articles 56 to 63 of Constitution. Constitutional Council, 11 january 1990, 89-271 DC, Act relative to the limitation of electoral expenses and the clarification of financing of political activities ; Constitutional council, 14 january 1999, 98-407 DC, Act determining the mode of election regional councillors and of councillors in the Corsican Assembly, ...

¹²Corporates had to transfer 2% of the price of the contract with a key of repartition: 1,2% to the RPR and the republican party, 0,8% to the socialist party (*Les Echos*, 17th may 2005, p.22). According to the judicial expert, nearly 1,83 billions of euros were attributed to big corporations like Eiffage, Spie Batignolles, Suez, Générale des Eaux, parties having the benefit of 200 millions of euros. Cf. *Les Echos*, 21 mars 2005, the financing of political parties: the process of trouble years ».

However, this phenomenon cannot be really distinguished of an other local phenomenon, the corruption (public contracts or property market).

- The third phenomenon, and not the least, is the decline of membership.

No party is actually able to finance its working with membership fees.

All studies show that in all parties the part of subscriptions represent less then 20% of the budget of the party, even in parties such as the National Front or the French communist party.

This evolution is significant and is the consequence of a lack of interest in political life, for the role of parties and their government programs.

Many people consider that no party can really change their life.

Individualism gets the upper hand over the life of collective groups.

For instance, a 2002 publication indicates that most French people consider the politicians as corrupted and only or essentially interested in their own career¹³.

But one question was posed: which place, which role for the companies in political life? Can a company finance political life or not?

The big corruption scandals of the eighthies, the difficulties met for financing campaigns, explain the choice of Parliament in 1988.

The house began to legislate so as to moralize the political life, setting up at the same time a public financing of parties and regulating the electoral expenses.

The first law of that kind was the law of the 11 march 1988, regulating the financial transparency of political life.

Several laws were adopted since that date so as to regulate more efficiently the electoral expenses and the financing of parties.

One of the last of those laws is the law of the 11 april 2003 on the election of the regional councils and the representatives to the european parliament and the public assistance to political parties.

2 - The public financing of political parties

As consequence of those factors, the Parliament decided to adopt several laws.

That progressive process was characterized by a 1988 law and a 1995 law prohibiting the financing of parties by companies as well as by all public persons and casinos, circles and gambling clubs.

¹³Pierre Bréchon, Crise de confiance dans les élites politiques, in Bruno Cautrès, Norma Mayer (dir.), *Le nouveau désordre électoral. Les leçons du 21 avril 2002*, Presses de Science Po., Paris, 2004, pp. 47 – 69.

In 1988, after a proposal made by a new government lead by Michel Rocard, the Parliament adopted a fundamental proposition of law.

It was the law of 11th march 1988 regulating the financial transparency of the political life.

The constitutional Council, in a ruling of 10 march 1988 (n°88-242 DC) approved that law.

Since then, campaigning and parties may be financed only by special financing associations which can themselves be financed only by party members, the profits originating from their own properties and public financings.

The public financing of parties is governed, since the law of 11 april 2003¹⁴, by two sets of rules:

- A first one is related to the parties and the political groups:

. their own financial association has to get a license delivered by the national commission of the accountings of campaign and of the political founding, under condition it did support candidates in at least 50 constituencies and obtained at minimum of 1% of expressed votes,¹⁵

. their financial association get licensed by the national commission of the accountings of campaign and of the political founding as far as it supported candidates exclusively in at least one constituency in French overseas territories.

- A second one, for the parties and political groups represented in Parliament and having the benefit of the first part.

This financing is exclusively set up for political parties.

But a candidate to some election who gets at least 5% of the votes is entitled to be refunded for his expenses by the State.

In 2003 the public financing for parties and political groups were: 73.221.219,87 euros.

The repartition was:

- First part: 32 parties or political groups and 35 parties or political groups for the election overseas, for 33.089.15,87 euros,

- Second part: 19 parties or political groups, for 40 132 204 euros.

In 2005, the public financing, 73 millions of euros, did benefit to 32 parties for the first part and 20 parties for the second part.

¹⁴ Article 34, Law n°2003-327.

¹⁵ Such a disposition conducted to keep out of the public financing some « opportunistic » parties which were founded only to have the benefit of that financing, like in 2002: the New Ecologists of the gathering of nature and animals, Eaden republic and democracy, The party of the natural law, The Party for freedom, The humanistic movement, ... parties often connected with religious sect. Cf. *Les Echos*, 31 february 2003, « The opportunistics » parties deprived of public funds ».

Since 2002, the most important party is the Union For a Popular Majority (UMP) which has 504 members of the Parliament¹⁶, before the socialist party (lied in an association with the Left radical Party) and the Union for a French Democracy (UDF).

An other consequence of the intervention of the state, is the evolution of legal definition of political parties.

Up to a recent area, every private group interested in political life could be named a political party.

At the present time, it seems that a political party is defined as a private moral person abiding to the paragraphs 8, 9 and 9-1 of the priory referred law or to the rules of the paragraph 11 at 11-7 of this law.

These rules make it mandatory to collect founds only through a representative who can be an individual whose name is declared to the prefecture, or a financing association duly licensed by the national commission of accounts of campaign and political financings.

The law sees that accounting books of French political party are published by the national commission.

Booking has to be kept in compliance with models set up by the National council of booking, that is, in compliance with basic booking rules¹⁷.

But compared to trade or corporate booking, rules applying to political parties are somewhat simplified.

Each report has nevertheless to be certified by two auditors.

The booking reporting has to be published every year in the “Journal Officiel” (French national monitor).

As a result, everyone is supposed to know most about French political parties and their financing.

Year	Parties having to deposit their account	Accepted as regular	Considered non regular	unpublished
1997	191	150	12	30
1998	208	154	16	38
1999	206	164	12	30
2000	208	180	6	22
2001	205	176	9	20
2002	231	190	7	34
2003	237	191	4	42

Official Journal Sénate, 21.04.2005, p. 1146.

¹⁶ Lied with some little parties: the Radical Party and the Forum of social republicans.

¹⁷ Avis n°95-02 relatif à la comptabilité des partis et groupements politiques.

The annual report shows the financial situation of all parties.

Some are in debt, others in bonis.

But the most important thing to stress out is the fact that if they were near 240 parties in 2003, only 15 had representatives in Parliament (20 in 2005).

B/ A legal framing of political action

It may be summed up in two parts.

1 - Framing the political propaganda

Since the first presidential election in 1965, the cost of political campaigning has become higher and higher.

It has been the same thing for parliamentary elections.

The different political majorities decided very progressively to limit the amount of expenses.

This evolution can be presented in some points:

- forbidding the commercial broadcast political propaganda,
- forbidding the use of commercial marketing techniques for political propaganda in all kind of media : newspaper, posting, radio, television,
- forbidding telephone calls or telematic propaganda,
- regulating the opinion polls,
- limiting posting.

Now, political parties have really no choice for their campaigning and cannot recruit professional advertisers.

Only during the political campaigns, and only at some dates designated by law, are parties and their candidates allowed to use radio and television and to post propaganda.

And even in that last case, all forms of posting (colour, height of posts...) are ruled by the law.

2 - Limiting the campaigning costs

Such legal dispositions have one objective: to limit the expenses of political campaigning.

The candidates can get financial support only from their parties or from political groups or individuals.

Therefore the electoral expenses of candidates are limited to an amount which varies according to the kind of election contest and the size of the constituency.

This amount includes all expenses of each candidate.

All candidates have to respect these financing requirements and, even if not elected, have to publish their booking reports within two months after the election.

Reports include the origin of monies (including the financing of the party), the expenses, all expenses financed by the candidates themselves or by other persons in the interest of the candidates with their agreement.

The Commission examines these accounts and can decide to reject them and declare their inaccuracy.

If an authorized amount of expenses has been exceeded, the National commission has to go to a special court ("juge de l'élection") which is a different court depending on the type of election, national or local.

It is empowered to cancel the election and get the candidate invalidated, or even ineligible for one year to the same election.

Should the reporting be deliberately inaccurate, should the candidate have used forbidden means of financing or have collected some ill-gained monies, the Commission has to inform the Public Prosecutor's Office who will engage legal and penal proceedings against the candidate.

All these legal dispositions are based on one fundamental principle: the independence of the Commission, which is an Independent administrative Authority and the independence of judicial power.

It means judging disputed electoral matters cannot be the province of political power any more.

It is an important difference with what happened during the Fourth French Republic.

The Parliament could then examine itself some parliamentary elections and had power to cancel the election.

Yet, in spite of all these different steps, French citizens seem today not to agree any more with the French political class and its discourse.

The French democracy is in crisis, even as the political debate still goes on.

One explanation can be found: in the French political tradition, political discourse and ideological debate have always been preferred upon day to day government managing.

After the 1981 change of government, reality joined utopia.

The referendum of the 29 May 2005 upon the Treaty for a Constitution for Europe shows it clearly as well as it shows the fundamental fractures crossing the French society.

Conclusion

- the french political system is made up of an historical accumulation of political parties resulting of a 200 year-long struggle for power and public management.
But no party can win alone any more, in a specific political context where party membership is scarce and political discourse largely discredited.
- the french political system is now complete with more professionally managed parties and a clear and efficient national control,
This is perhaps the most important contradiction of France: to have succeeded in limiting many problems about parties while in the same time having to deplore the growing gap between the political class and the majority of citizens.